



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/164099

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on March 10, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare (FS) benefits for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. The petitioner filed this appeal to contest the discontinuance of his FoodShare benefits effective March 1, 2015. Those benefits were discontinued for failure to participate in the FoodShare

Employment and Training (FSET) program as an Able-bodied Adult without Dependents (ABAWD) who was required to meet a work requirement.

3. On November 12, 2014 the petitioner completed a renewal of his FS benefits. During the renewal the agency explained the new requirements for either working or participating in the employment training program. The agency also explained that if the petitioner failed to meet these requirements he would not receive FS benefits after three months.
4. On November 13, 2014 an agency worker called the petitioner, and told him that his orientation was set up for November 26, 2015. The agency sent a written notice on that same date. The petitioner did not call or show up for his November 26, 2014 orientation.
5. The agency rescheduled the petitioner's orientation for December 15, 2014. The agency sent the petitioner a notice for this date and time. The petitioner did not call or show up for his December 15, 2014 orientation.
6. The agency rescheduled the petitioner's orientation for January 2, 2015. The agency sent the petitioner a notice for this date and time. The petitioner did not call or show up for his January 2, 2015 orientation.
7. The agency rescheduled the petitioner's orientation for January 21, 2015. The agency sent the petitioner a notice for this date and time. The petitioner did not call or show up for his January 21, 2015 orientation.
8. The agency rescheduled the petitioner's orientation for February 4, 2015. The agency sent the petitioner notice of this date and time, and the petitioner completed the orientation on that date.
9. After the petitioner completed his orientation and established an employability plan, the petitioner was to follow through with that plan.
10. On February 5, 2015 the agency sent the petitioner notice of a February 11, 2015 appointment. The petitioner did not call or show up for that appointment. In addition, the petitioner never completed his required 20 hours per week of activities.
11. On February 16, 2015 the agency sent the petitioner notice that effective March 1, 2015 his FS benefits would terminate for failure to fulfill the work requirement or participate in the required FSET activities.
12. On February 24, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2*. This will be implemented statewide as of April 1, 2015. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1*. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age*;
- Able to work;

- Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
- Not pregnant.

...

FSH §3.17.1.4.

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
 - a. Receiving temporary or permanent disability benefits from the government or a private source;
 - b. Mentally or physically unable to work, as determined by the IM agency;
 - c. Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;
3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
5. Is a student of higher education and is otherwise eligible for FS ([3.15.1](#));
6. Is a full-time high school student age 18 or over;
7. Is receiving Transitional FS benefits; or
8. Is meeting the ABAWD work requirement.

FSH §3.17.1.5.

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
2. Participating and complying with an allowable work program at least 80 hours per month; * [includes FSET]
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
4. Participating and complying with the requirements of a workfare program.

FSH, §13.17.1.7.

If not exempt from work requirements each FoodShare household member must register for work at the time of application and review. *FSH, §3.16.1.4.* As just noted, a person may meet the work requirement by participating in the FoodShare Employment and Training (FSET) program. *FSH, §3.17.1.17.*

I am declining to reverse this discontinuance of Petitioner's FoodShare. The petitioner missed a total of 9 appointments. The petitioner failed to call the agency prior to missing these appointments. Had the petitioner missed one or two appointments, and called the agency to explain that he had a transportation issue or a different legitimate issue that day, perhaps, the petitioner could show could cause. However, based upon the record in this case, the petitioner has not shown good cause. The petitioner states that he has health issues and does not have stable housing. He states that he did not get the notices because of his lack of stable housing. I note that despite the petitioner's stated health issues, the petitioner is not disabled, and he is able to work. In addition, the petitioner never provided any verification of these health issues. One emergency room visit that was not on a day of a scheduled appointment is not sufficient verification or good cause for failing to call or show up to appointments the previous three months. Finally, if the petitioner had issues getting his mail, he could have called the agency to confirm appointment dates and times. He did not do this. The petitioner's uncorroborated and self-serving testimony does not provide good cause for failing to call or show at 9 different appointments and participate in the FSET program.

CONCLUSIONS OF LAW

That the agency correctly discontinued the petitioner's FoodShare benefits for failing to meet ABAWD requirements – here FSET participation.

NOW, THEREFORE, it is ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

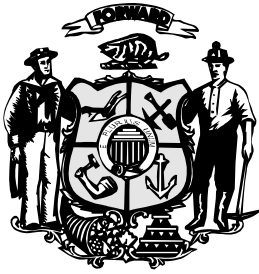
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of March, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 27, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability